

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SAMSUNG ELECTRONICS CO, LTD., et
al.,

Plaintiffs,

v.

BLAZE MOBILE, INC., et al.,

Defendants.

Case No. [5:21-cv-02989-EJD](#)

**ORDER DENYING SAMSUNG'S
MOTION UNDER FED. R. CIV. P. 12(C)
FOR JUDGMENT OF
UNPATENTABILITY UNDER SECTION
101 AS TO ADVERTISING PATENTS**

Re: Dkt. No. 47

Plaintiffs Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively, "Samsung") initiated this action for a declaratory judgment of non-infringement as to eight patents owned by Defendants Blaze Mobile, Inc. and Michelle Fisher (collectively "Blaze"). Blaze answered and counterclaimed for infringement. Pursuant to Federal Rule of Civil Procedure 12(c), Samsung moves for judgment of unpatentability under 35 U.S.C. § 101. Dkt. No. 47. Blaze filed an opposition with an appendix identifying the representative claims for the patents-in-suit for purposes of addressing Samsung's motion (Dkt. No. 50), and Samsung filed a reply (Dkt. No. 52). The Court conducted a hearing on May 12, 2022. Based upon all pleadings filed to date and the comments of counsel, Samsung's motion is denied as to the Advertising Patents. The Court will issue a separate order addressing the remaining Patents-in-Suit.

I. BACKGROUND

Blaze and Fisher own the following eight patents, which are directed to performing a variety of functions on a mobile device:

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- U.S. Patent No. 9,378,493, (“the ’493 Patent”) is entitled “Mobile Communication Device Near Field Communication (NFC) Transactions”;
- U.S. Patent No. 9,652,771, (“the ’771 Patent”) is entitled “Induction Based Transactions at a Mobile Device with Authentication”;
- U.S. Patent No. 9,996,849, (“the ’849 Patent”) is entitled “Remote Delivery of Advertisements”;
- U.S. Patent No. 10,339,556, (“the ’556 Patent”) is entitled “Selecting and Transmitting an Advertisement from a Server in Response to User Input”;
- U.S. Patent No. 10,621,612, (“the ’612 Patent”) is entitled “Displaying an Advertisement in Response to User Input Using a Non-Browser Based Application”;
- U.S. Patent No. 10,699,259, (“the ’259 Patent”) is entitled “Remote Transaction Processing Using a Mobile Device”;
- U.S. Patent No. 10,565,575, (“the ’575 Patent”) is entitled “NFC Mobile Device Transactions with a Digital Artifact”; and
- U.S. Patent No. 10,825,007, (“the ’007 Patent”) is entitled “Remote Transaction Processing of at a Transaction Server.”

The eight patents are collectively referred to as the “Patents-in-Suit.” The ’849, ’556, and ’612 are collectively referred to as the “Advertising Patents”; the ’493, ’771, and ’575 are referred to as the “NFC Security Patents”; and the ’259 and ’007 are referred to as the “Mobile Payment Patents.”

Blaze alleges that the Advertising Patents relate to improvements in “the reliability and performance of non-browser mobile application running on a mobile device for delivering advertisements, for example, a coupon (*i.e.*, advertisement) which can be displayed in the non-browser based application if the mobile device is offline and loses connection with a wireless network.” Blaze’s Answer and Affirmative Defenses to Complaint for Declaratory Judgment; And Counterclaims for Patent Infringement (“Blaze Counterclaims”), Dkt. No. 30, ¶ 22. Further, Blaze alleges that “[t]he delivery of advertisements based upon certain targeting parameters in response to user input from a non-browser base application stored on a mobile device as done by the Accused Samsung Ads Products are a material part of the claims of the [Advertising] Patent[s] and thus the Accused Samsung Ads Products perform the key inventive functions of the

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[Advertising] Patent[s]. *Id.*, ¶¶ 254, 286, 320.

II. STANDARDS

A. Federal Rule of Civil Procedure 12(c)

A motion for judgment on the pleadings under Federal Rule of Civil Procedure 12(c) challenges the legal sufficiency of the opposing party’s pleadings and operates like a motion to dismiss under Rule 12(b)(6). *Morgan v. Cty. of Yolo*, 436 F. Supp. 2d 1152, 1154–55 (E.D. Cal. 2006). Judgment on the pleadings is appropriate if, assuming the truth of all materials facts pled in the complaint, the moving party is nonetheless entitled to judgment as a matter of law. *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1550 (9th Cir. 1989). When ruling on a motion for judgment on the pleadings, the court may consider materials subject to judicial notice in addition to considering the allegations of the complaint. *Heliotrope Gen., Inc. v. Ford Motor Co.*, 189 F.3d 971, 981 n.18 (9th Cir. 1999). A Rule 12(c) motion for judgment on the pleadings may thus be granted if, after assessing both the complaint and matters subject to judicial notice, it appears beyond doubt that the non-moving party cannot prove any facts that would support his claim for relief. *Enron Oil Trading & Transp. Col. v. Walbrook Ins. Co., Ltd.*, 132 F.3d 526, 529 (9th Cir. 1997).

B. 35 U.S.C. § 101

Section 101 of the Patent Act provides that a patent may be obtained for “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.” 35 U.S.C. § 101. However, the Supreme Court has recognized that these broad categories contain an implicit exception: “[l]aws of nature, natural phenomena, and abstract ideas are not patentable.” *Ass’n for Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 133 S. Ct. 2107, 2116 (2013) (internal quotation marks and citation omitted). In applying this exception, courts “must distinguish between patents that claim the building blocks of human ingenuity and those that integrate the building blocks into something more.” *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208, 134 S. Ct. 2347, 2354 (2014).

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To determine whether a claim falls within the “abstract idea” exception, the Supreme Court has established a two-step framework. First, the court must “determine whether the claims at issue are directed to a patent-ineligible concept.” *Id.* at 2355. The “directed to inquiry” is a “meaningful one” and “cannot simply ask whether the claims involve a patent-ineligible concept, because essentially every routinely patent-eligible claim involving physical products and actions involves a law of nature and/or natural phenomenon.” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (2016). “Rather, the ‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the specification, based on whether ‘their character as a whole is directed to excluded subject matter.’” *Id.*

Second, if the claims are directed to patent-ineligible subject matter, the Court must “consider the elements of each claim both individually and ‘as an ordered combination’ to determine whether the additional elements ‘transform the nature of the claim’ into a patent-eligible application.” *Id.* (quoting *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 132 S. Ct. 1289 (2012)). The Supreme Court has described this as a “search for an ‘inventive concept’—i.e., an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Id.*

When assessing patent protection under § 101, the claims of the patent “must be considered as a whole.” *Diamond v. Diehr*, 450 U.S. 175, 188 (1981). “This is particularly true in a process claim because a new combination of steps in a process may be patentable even though all the constituents of the combination were well known and in common use before the combination was made.” *Id.*

Whether an asserted claim is invalid for lack of subject matter patentability under § 101 is a question of law. *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332, 1338 (Fed. Cir. 2017) (“Patent eligibility under § 101 is an issue of law[.]”). Although a section 101 analysis “may contain disputes over underlying facts,” it can often be resolved on the pleadings. *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (Fed. Cir. 2018) (“As our cases demonstrate, not

every § 101 determination contains genuine disputes over the underlying facts material to the § 101 inquiry.”). “Accordingly, a district court may resolve the issue of patent eligibility under § 101 by way of a motion for judgment on the pleadings.” *MyMail, Ltd. v. OoVoo, LLC*, -- F.3d --, 2020 WL 2219036, at *3 (N.D. Cal. May 7, 2020) (citing *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1352 (Fed. Cir. 2014) (affirming determination of ineligibility made on motion for judgment on the pleadings)).¹

III. DISCUSSION

Samsung contends that all of the Patents-in-Suit should be held invalid under 35 U.S.C. §101—and the infringement claims asserting them should be dismissed—because they are directed to abstract ideas and fail to incorporate an inventive concept. In response, Blaze asserts that Samsung’s motion should be denied because there are disputed claim terms that must be construed, the motion raises genuine disputes of material fact, which are not suitable for resolution on the pleadings, and that each of the Patents-in-Suit is directed to a technical solution to a technical problem, not an abstract idea, and recites an inventive concept.

A. Claim Construction

The Court rejects Blaze’s assertion that a § 101 invalidity analysis is premature in this case without first conducting claim construction. As in *Simio, LLC v. FlexSim Software Prods., Inc.*, Blaze “has not explained how it might benefit from any particular term’s construction under an *Alice* § 101 analysis.” 983 F.3d 1353, 1365 (Fed. Cir. 2020). Rather, Blaze identifies disputed terms “non-browser based application,” “secure element,” and “secure element application” and then relies on the Federal Circuit’s general guidance that claim construction is desirable, and often necessary prior to a § 101 analysis, for “a full understanding of the basic character of the claimed subject matter.” *StoneEagle Services, Inc. v. Pay-Plus Solutions, Inc.*, 2015 WL 518852 * 4

¹ The novelty and nonobviousness of claims under 35 U.S.C. §§ 102 and 103 do not bear on whether claims are directed to patent-eligible subject matter under § 101. *Two-Way Media Ltd. v. Comcast Cable Communications, LLC*, 874 F.3d 1329, 1336 (Fed. Cir. 2017).

(M.D. Fl. 2015) (quoting *Bancorp Servs., L.L.C. v. Sun Life Assur. Co. of Canada (U.S.)*, 687 F.3d 1266, 1273-74 (Fed. Cir. 2012)). Merely pointing to the claim language, without explaining how claim construction would change the analysis is insufficient to defer consideration of the instant motion. See *Cyberfone Systems, LLC v. CNN Interactive Group, Inc.*, 558 F. App'x. 988, 991 n.1 (Fed. Cir. 2014) (patentee's failure to "explain which terms require construction or how the [§ 101] analysis would change," and instead "merely point[ing] to claim language," was insufficient to show claim construction was necessary to resolve patentability challenge).

B. Factual Disputes Do Not Necessary Foreclose *Alice* Analysis

The Court also rejects Blaze's blanket assertion that Samsung's motion is premature because of factual disputes. "[C]ourts can, and regularly do, decide the issue of § 101 invalidity on a Rule 12(c) motion." *Barbaro Techs., LLC v. Niantic, Inc.*, 475 F. Supp. 3d 1007, 1011 (N.D. Cal. 2020); see also *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1166 (Fed. Cir. 2018) (noting § 101 invalidity "may be, and frequently has been, resolved on a Rule 12(b)(6) or (c) motion"). When the issue of § 101 invalidity is raised at the pleading stage "it simply means all allegations must be accepted as true and construed in the light most favorable to the non-moving party. *Barbaro*, 475 F. Supp. 3d at 1011; see also *Aatrix Software, Inc. v. Green Shades Software, Inc.*, 882 F.3d 1121, 1125 (Fed. Cir. 2018) (patent eligibility can be determined at the Rule 12(b)(6) stage "when there are no factual allegations that, taken as true, prevent resolving the eligibility question as a matter of law.").

C. The Advertising Patents

The Advertising Patents are directed to providing advertising on mobile devices. Claim 1 of the '849 Patent recites:

1. A method for delivering an advertisement, comprising:

maintaining, at a remote management server, the advertisement;

selecting, at the remote management server, the advertisement based on one or more targeting parameters in response to user input from a non-browser based application stored on a mobile device, wherein the one or more targeting parameters comprise personal information and purchase transaction related

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information wherein the non-browser based application stored on the mobile device receives the user input via a mobile device display wherein the non-browser based application is a non-browser based application with a graphical user interface that is preinstalled or downloaded and installed on the mobile device, the mobile device comprising the mobile device display, a mobile device processor, and a mobile device wireless radio interface;

sending, from the remote management server, the advertisement to the non-browser based application and further wherein the non-browser based application displays the advertisement within a specific non-browser based application generated screen, the specific nonbrowser based application generated screen corresponding to a specific screen or area of the non-browser based application.

'849 Patent at 9:48-10:6. Claim 12 of the '849 Patent, which is the only other independent claim, recites the same subject matter in an apparatus-claim format:

12. A remote management server for delivering an advertisement, comprising:

a remote management server memory that stores the advertisement;

a remote management server processor that selects an advertisement based on one or more targeting parameters in response to user input from a non-browser based application stored on a mobile device, wherein the one or more targeting parameters comprise personal information and purchase transaction related information, wherein the non-browser based application stored on the mobile device receives the user input via a mobile device display, wherein the non-browser based application is a non-browser based application with a graphical user interface that is preinstalled or down-loaded and installed on the mobile device, the mobile device comprising the mobile device display, a mobile device processor, and a mobile device wireless radio interface;

a remote management server transceiver that sends the advertisement to the non-browser based application and further wherein the non-browser based application displays the advertisement within a specific non-browser based application generated screen, the specific non-browser based application generated screen corresponding to a specific screen or area of the non-browser based application.

Id. at 10:56 -11:16.

1. Alice Step One: Whether The Advertising Patents' Claims are Directed to an Abstract Idea

Samsung contends that the Advertising Patents are directed to the abstract concept of conducting targeted advertising on a mobile device, whereas Blaze contends that they relate to improvements in the reliability and performance of non-browser mobile applications running on a mobile device for delivering advertisements.

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“The concept of tailoring advertisements based on user data” is an abstract idea that “dates back at least to local radio and television advertisements.” *Bridge & Post, Inc. v. Verizon Commc’ns, Inc.*, 778 F. App’x 882, 884, 887 (Fed. Cir. 2019) (quoting *Intellectual Ventures I LLC v. Cap. One Bank (USA)*, 792 F.3d 1363, 1369–70 (Fed. Cir. 2015)); *see also Affinity Labs of Texas, LLC v. Amazon.com Inc.*, 838 F.3d 1266, 1271 (Fed. Cir. 2016) (similar); *In re Morsa*, 809 F. App’x 913, 917 (Fed. Cir. 2020) (similar). Accordingly, claims directed to targeted advertising, including targeted advertising delivered on mobile devices, are unpatentable. *See, e.g., Free Stream Media Corp. v. Alphonso Inc.*, 996 F.3d 1355, 1365 (Fed. Cir. 2021) (holding claims ineligible for patenting because they were directed to “the abstract idea of providing targeted advertising to the mobile device user”); *Customedia Techs., LLC v. Dish Network Corp.*, 951 F.3d 1359, 1365 (Fed. Cir. 2020) (claim that recited “data delivery system for providing automatic delivery of . . . specifically identified advertising data” was directed to abstract idea, even though the claimed invention provided a reserved and dedicated section of storage to ensure memory was available for at least some advertising data).

Here, claim 1 of the ’849 Patent is directed to the abstract concept of providing targeted advertising on a mobile device. It recites a result-oriented method for delivering an advertisement, comprising: “maintaining” the advertisement at a remote server; “selecting” the advertisement based on “targeting parameters in response to user input”; and “sending” the advertisement to the non-browser based application. ’849 Patent at 9:51-53. Claim 12 of the ’849 is similarly directed to the abstract concept of providing an advertisement by using a “remote management server” that “stores” and “selects” the advertisement based on user input, and a remote management server transceiver that sends the advertisement. *Id.* at 10:60-64. The targeted advertising is performed in a computer environment, but that does not necessarily transform the targeted advertising “out of the realm of abstraction.” *PersonalWeb Tech. LLC v. Google*, 8 F.4th 1310, 1316 (Fed. Cir. 2021). “An abstract idea on ‘an Internet computer network’ . . . is still an abstract idea.” *Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1348 (Fed. Cir. 2016).

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The Federal Circuit instructs that at *Alice* step one, courts “consider the ‘claims in their entirety to ascertain whether their character as a whole is directed to excluded subject matter.’ ” *ChargePoint, Inc. v. SemaConnect, Inc.*, 920 F.3d 759, 765 (Fed. Cir. 2019) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). The Advertising Patents’ claims, as a whole, resemble claims the Federal Circuit has found abstract. For example, in *Bridge & Post*, which is a nonprecedential decision, the patents at issue described tracking a user on a network and serving tailored advertisements. One of the claims at issue in *Bridge & Post* recited a “[a] method for providing directed media to a user on a network.” *Bridge & Post*, 778 Fed. Appx. at 885. The claim required “receiving a user request to access a website, retrieving a ‘persistent device identifier’ from the user’s device, and gathering current and historical information about both the user and the device.” *Id.* The collected information and identifier are analyzed to determine what advertisement should be shown to the user. *Id.*

Blaze does not deny that providing targeted advertising is an abstract idea. Instead, Blaze contends that the claims in *Bridge & Post* are distinguishable because they “merely required tracking users with personal markings.” Opp’n at 22. This is inaccurate. One of the claims in *Bridge & Post* required receiving a request from the user for content, retrieving historic information for the user (including patterns of usage), “analyzing” the historic information and other information “to determine” content for the user, and then “placing” that content in a web site for the user where the content “is customized to the user.” *Bridge & Post*, 778 Fed. Appx. at 886-87. Blaze further contends that *Bridge & Post* is distinguishable because the claims referred to a “directed media component” and did not say anything about advertising. The argument is unpersuasive. The Federal Circuit viewed the claims as a whole as “directed to the use of persistent identifiers to implement targeted marketing,” which the Federal Circuit viewed as advertising. *Id.* at 887.

The Advertising Patents’ claims are also similar to those in *Free Stream Media*. In *Free Stream Media*, the claims were directed to: “(1) gathering information about television users’

viewing habits; (2) matching the information with other content (i.e., targeted advertisements) based on relevancy to the television viewer; and (3) sending that content to a second device.” *Free Stream*, 996 F.3d at 1361–62. The Federal Circuit concluded that the claims were directed to the abstract idea of targeted advertising. *Id.* The Advertising Patents’ claims in the present case contain comparable steps that are directed to the abstract idea of sending a targeted advertisement to a user’s device.

The Advertising Patents’ claims also resemble claims in *Affinity Labs*, where the patent claimed a media system comprising a network based media managing system stores content; a collection of instructions configured to initiate presentation of graphical interface, to facility a user’s selection of content, and to send a request for delivery of content; and a network based delivery source configured to select and to send content in response to user’s selection. 838 F.3d at 1271. The Advertising Patents’ claims also resemble the claims in *Intellectual Ventures*, where the patent related to “customizing information based on (1) information known about the user and (2) navigation data.” 792 F.3d at 1369. *See also Customedia*, 951 F.3d at 1362-65 (claim recited a “data delivery system for providing automatic delivery of . . . specifically identified advertising data); *In re Morsa*, 809 F. App’x at 917 (claim recited a “process” that “transmit[s]” a “request for demographic and/or psychographic user information” to the user and then “sav[es]” the “user information” on the system to match the user to a specific advertiser.).

Blaze asserts that the cases discussed above are distinguishable because the Advertising Patents’ claims “recite a specific device for accomplishing a specific technical need using a ‘non-browser based application’ in an ordered and novel combination.” Opp’n at 22. “The Supreme Court has suggested that claims ‘purport[ing] to improve the functioning of the computer itself,’ or ‘improv[ing] an existing technological process’ might not succumb to the abstract idea exception.” *Enfish*, 822 F.3d at 1335 (quoting *Alice*, 573 U.S. at 225). Here, Blaze assert that the claims in the Advertising Patents recite two technological improvements to memory usage: first, the use of a

1 single non-browser application; and second, choosing the advertisement at the remote
2 management server.

3 Blaze acknowledges that the claims do not expressly state technological improvements, but
4 argues that the claims do not need to recite the actual benefit achieved by the claimed invention,
5 citing *Uniloc USA, Inc. v. LG Elecs. USA, Inc.*, 957 F.3d 1303, 1309 (Fed. Cir. 2020). The issue,
6 however, is not whether the claims recite a benefit in the abstract. Rather, the issue is whether the
7 claims are directed to an improvement to computer functionality or technical improvement.
8 *Enfish*, 822 F.3d at 1335. The Advertising Patents' claims are not. Instead, they recite
9 generalized steps to be performed on conventional computer components and steps to implement
10 the abstract concept of targeted advertising on mobile devices. The single non-browser
11 application performs the generalized steps of receiving input, receiving and advertisement, and
12 displaying an advertisement. The remote server similarly performs the generalized step of
13 choosing the advertisement. *See e.g., Intellectual Ventures*, 792 F.3d at 1363 (server is tasked
14 with providing web pages); *Free Stream Media*, 996 F.3d at 1359 ("relevancy-matching server
15 uses primary data from the networked device to select advertisements or other targeted data based
16 on a relevancy factor associated with the user"). Nothing more concrete is disclosed regarding the
17 single non-browser application and the remote server. "[M]erely provid[ing] a generic
18 environment in which to carry out the abstract idea" does not transform a claim into a patent-
19 eligible application. *In re TLI Commc'ns LLC Pat. Litig.*, 823 F.3d 607, 611 (Fed. Cir. 2016).

20 At step one of the *Alice* test, courts also look to what the specification describes as the
21 invention . . . to help understand the focus of the claims." *See ChargePoint*, 920 F.3d at 768 n.2.
22 According to the Advertising Patents' specifications, the technological improvement is due to the
23 customization of a mobile application running on a mobile communication device of a user. *See*
24 '849 Patent at 1:50–59, 5:52–59 ("a single mobile application can be customized by a large
25 number of different special interest groups ("SIG") Less memory is, therefore, required by a
26 mobile communication device in order to support applications required by multiple special interest

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groups (SIGs).”). However, the Patent and Trademark Appeals Board (“PTAB”) recently found that substantially similar claims appearing in a since abandoned Blaze patent application were directed to the abstract idea of “customizing delivery of artifacts, e.g., advertisements or other content, to a user on a mobile device based on targeting parameters.” *Ex Parte Michelle Fisher*, 2020 WL 1041299, at *7 (P.T.A.B. Feb. 28, 2020) (determining U.S. Pat. App. 14/867,328 claimed unpatentable abstract subject matter). The PTAB determined that “[t]he addition of basic user customization features to the interface does not alter the abstract nature of the claims and does not add an inventive component that renders the claims patentable. *Id.* at *5. Thus, even assuming the Advertising Patents’ claims recited a customization feature, doing so would not alter the abstract nature of the claims. *Id.*; see also *Affinity Labs*, 838 F.3d at 1271 (“Like the basic concept of tailoring content to a user . . . the basic concept of customizing a user interface is an abstract idea.”).

The Court finds that the Advertising Patents’ claims are directed to the abstract idea of targeted advertising. Therefore, the Court proceeds to *Alice* step two.

2. *Alice* Step 2: Inventive Concept

Having determined that the claims of the Advertising Patents are directed to a patent-ineligible concept, the Court next “consider[s] the elements of each claim both individually and ‘as an ordered combination’ to determine whether the additional elements ‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, 573 U.S. at 217 (quoting *Mayo*, 566 U.S. at 78–79). The claims “must do significantly more than simply describe [the] abstract idea itself.” *Affinity Labs*, 838 F.3d at 1262. Further, the inventive concept in the claims “must be more than well-understood, routine, conventional activity,” “and cannot simply be an instruction to implement or apply the abstract idea on a computer.” *Bascom*, 827 F.3d at 1349; *In re TLI*, 823 F.3d at 613 (“It is well-settled that mere recitation of concrete, tangible components is insufficient Rather, the components must involve more than performance of well-understood, routine, conventional activities previously known to the industry.”). For example, “the invocation of

‘already-available computers that are not themselves plausibly asserted to be an advance . . . amounts to a recitation of what is well-understood, routine, and conventional.’” *Customedia*, 951 F.3d at 1366 (quoting *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1170 (Fed. Cir. 2018)).

Here, the Advertising Patents’ claims invoke already-available generic computing components such as “remote management server,” “non-browser based application,” and a “mobile device” comprising a “mobile device display, a mobile device processor, and a mobile device wireless radio interface.” ‘849 Patent at 2:3–7, 3:58–62, 5:31–33. Further, the activities of these generic computing components, *i.e.*, “maintaining,” “selecting,” “receiv[ing],” “sending,” and “display[ing] information, are also conventional. ’849 Patent at claims 1, 12. Despite the Advertising Patents’ generic components and conventional activities, Blaze contends that the Patents recite an inventive concept because the specific ordered combination of the limitations provides technical advantages.

The Federal Circuit has held that even if individual elements of a claim are generic or conventional, the claims are patent-eligible when the ordered combination of elements provides a technical improvement over the prior art. *See, e.g., Bascom*, 827 F.3d at 1350 (claims eligible even though individual elements were generic computer and network components, because there was “an inventive concept . . . in the non-conventional and non-generic arrangement of [the] known, conventional pieces”); *see also Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1303 (Fed. Cir. 2016) (“[w]hile some individual limitations arguably may be generic, others are unconventional and the ordered combination of these limitations yields an inventive concept.”).

Blaze argues that the Advertising Patents’ claims “reflect an unconventional arrangement that shifts the selection of individualized advertisement from a mobile device . . . to selection of individualized advertisement at the remote server and deliver to a single non-browser based application—all of which makes Blaze’s invention more efficient and improves the performance of the computer system.” Opp’n at 24-25. Blaze alleges that the Advertising Patents relate to

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1 improvements in “the reliability and performance of non-browser mobile application running on a
2 mobile device for delivering advertisements, for example, a coupon (*i.e.*, advertisement) which
3 can be displayed in the non-browser based application if the mobile device is offline and loses
4 connection with a wireless network.” Blaze Counterclaims ¶ 22. Further, Blaze alleges that the
5 content can be displayed on the non-browser based application without connection to a server. *Id.*
6 ¶¶ 44-48.

7 At the pleading stage, the Court finds Blaze’s alleged inventive concept is at least plausible
8 based on the specification. The specification describes one implementation that has memory
9 advantages:

10 In one implementation, association between a SIG and an end user is
11 validated via an out-of-band process-e.g., a banking customer may
12 have to specify their SIG and provide their SIG credentials (e.g.,
13 online banking user ID/password) that are unique to the SIG. The
14 management server validates the credentials with the SIG. Once the
15 end user has been authenticated by the SIG, it will be possible to
16 deliver the SIG’s branding and messaging specifically to the end
17 user. Such a technique minimizes the number of applications that
18 need to be executed by a mobile communication device. For
19 example, a single mobile application can be customized by a large
20 number of different special interest groups (SIGs). In one
21 implementation, the mobile application can be customized to display
22 different screens, user interfaces and/or controls. Less memory is,
23 therefore, required by a mobile communication device in order to
24 support applications required by multiple special interest groups
25 (SIGs).

26 ’849 Patent, 5:51-59. The specification also describes another implementation with the remote
27 server selecting advertisements. *Id.* at 7:24-33. According to Blaze, “[p]roviding targeted
28 advertisements from a remote server to a non-browser application solved a technical problem
unique to mobile device with limited memory.” Opp’n at 24. The specification also discusses
offline access. ’849 Patent at 6:62-67. Blaze contends that by allowing the display of an
advertisement in the non-browser based application when the mobile device has lost contact with
the internet, Blaze’s inventions disclose an inventive concept that improves the function and
reliability of the mobile device. Blaze also asserts U.S. Patent Application Publication No.

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20008/0052192, which has been incorporated by reference into the Advertisement Patents, discloses scalability advantages. *See* Dkt. No. 51-3 at ¶ 116.

Samsung raises essentially two counterarguments. First, Samsung reasserts that the claims implement targeted advertising using nothing more than well-understood, routine, conventional activities previously known in the industry. Second, Samsung argues that the Blaze’s alleged inventive concept is essentially caching, *i.e.*, storing data in memory, which is yet another conventional computing function. But *Bascom* instructs that an inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces. *Bascom*, 827 F.3d at 350. At this stage in the proceedings, Blaze’s “plausible and specific factual allegations that aspects of the claims are inventive” are sufficient to defeat Samsung’s motion. *Cellspin Soft, Inc. v. Fitbit, Inc.*, 927 F.3d 1306, 1317 (Fed. Cir. 2019).

IV. CONCLUSION

For the reasons stated above, Samsung’s motion for judgment on the pleadings as to the Advertising Patents is DENIED. The Court will issue a separate order addressing the remaining Patents-in-Suit.

IT IS SO ORDERED.

Dated: September 30, 2022



EDWARD J. DAVILA
United States District Judge

Case No.: [5:21-cv-02989-EJD](#)

ORDER DENYING SAMSUNG’S MOTION FOR JUDGMENT ON THE PLEADINGS AS TO ADVERTISING PATENTS